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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,451	09/30/2003	Stephen L. Fichera	2024738-7031752001 (11.02)	5606
7590 01/18/2006			EXAMINER	
Bingham McCutchen LLP Suite 1800 Three Embarcadero Center San Francisco, CA 94111-4067			HESS, DOUGLAS A	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,451

Applicant(s)

FICHERA, STEPHEN L.

Examiner

Douglas A. Hess

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-24, 26-29 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 25 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

- 5) ☐ Notice of Informal Patent Application (PTO-152)

- 6) ☒ Other: Weaver Patent, Goodman, Patent

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-15, 18, 19, 21-23, 26-29, and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Weaver USP 1,010,468.

See the attached marked up drawing figure 2 of Weaver depicting the claimed features.

3. Claims 12, 16-18, 20, 21, 24, 26-29, 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodman USP 2,854,169.

See the attached marked up drawing figure 2 of Goodman depicting the claimed features.

Allowable Subject Matter

4. Claims 25 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

5. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection. The rejection is now under 35 USC 102 instead of 35 USC 103. The examiner points out that the slides are not part of the positively recited invention. The slides are only part of functional language which in the claimed scenario does not carry any patentable weight. Tiles, plates, labels, or any flat stackable object could function in either Weaver or Goodman. RE dispensing the bottom label, Weaver clearly shows this by only pulling out the bottom label.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

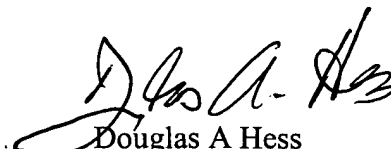
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3651

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Douglas A Hess
Primary Examiner
Art Unit 3651

1-12-06

DAH
January 12, 2006

G. N. WEAVER.
CASE FOR HOLDING LABELS OR THE LIKE.
APPLICATION FILED MAY 9, 1911.

1,010,468.

Patented Dec. 5, 1911.

2 SHEETS—SHEET 1.

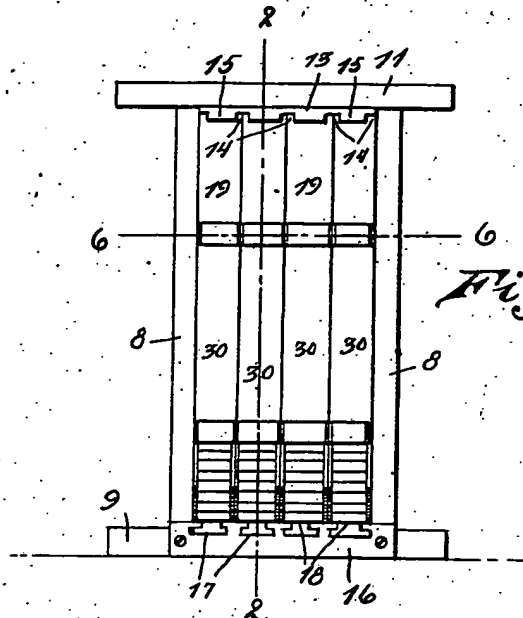


Fig. 1.

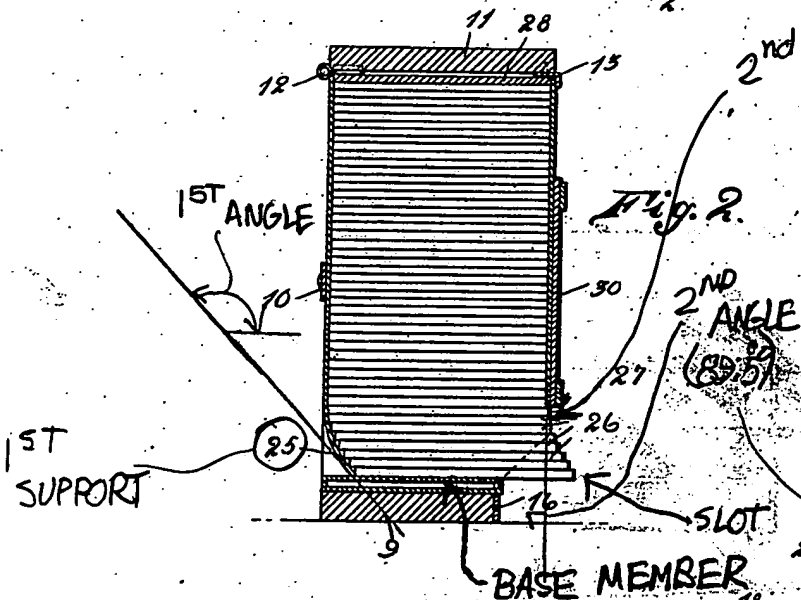


Fig. 2.

2ND SUPPORT Fig. 3.

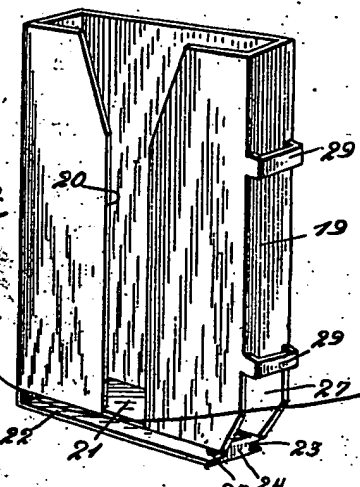


Fig. 3.



Fig. 4.

appears to
be 90 or
could be
slightly less

Witnesses
J. Milton Foster
B. J. Ashburne

Inventor
C. N. Weaver

C. L. Parker
Attorney

Sept. 30, 1958

P. J. GOODMAN

2,854,169

CARTON DISPENSER

Filed Dec. 19, 1955

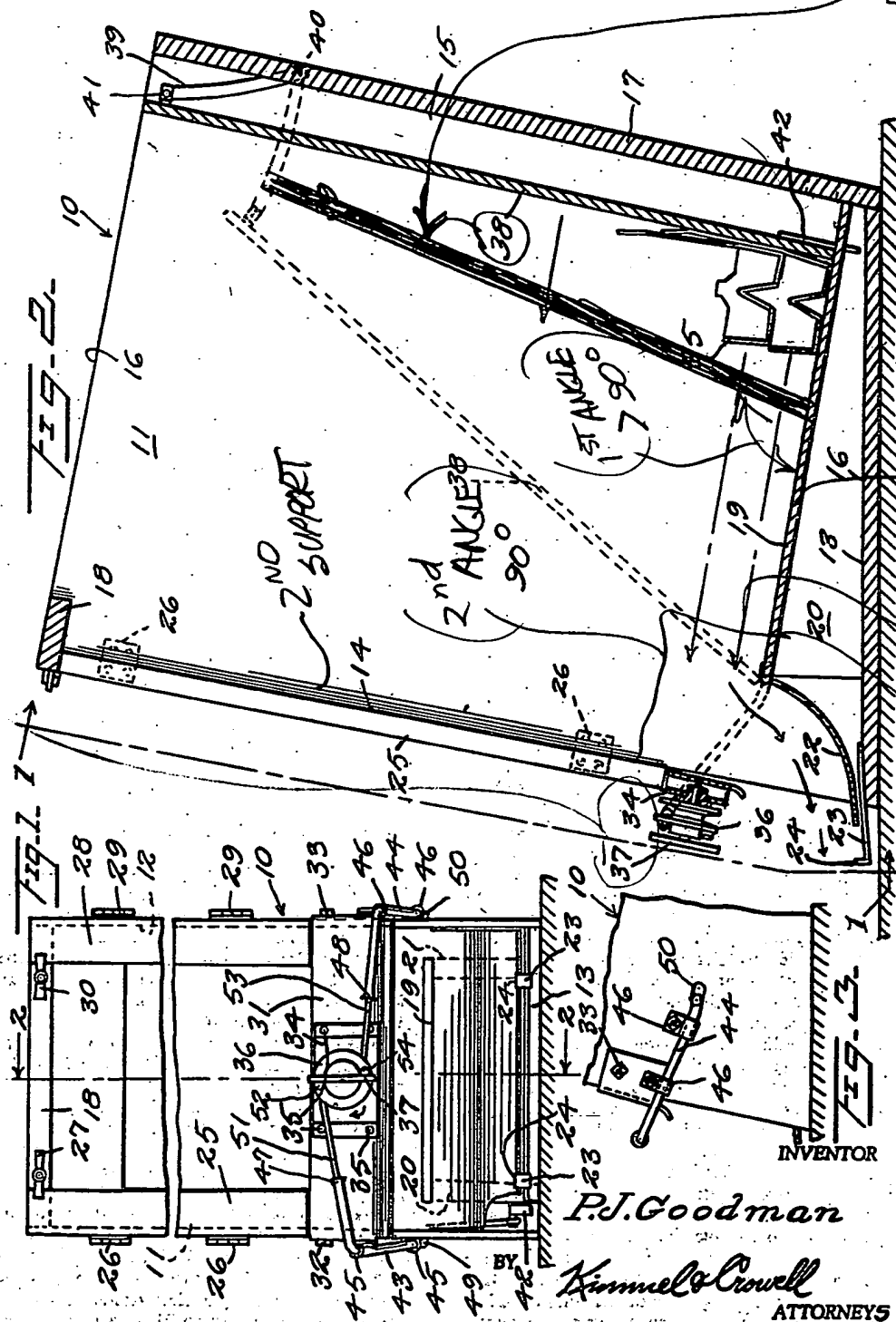
RE CLAIM 17
38 is second
support
(ADJUSTABLE)

1st SUPPORT
MEMBER
(ADJUSTABLE)

BASE MEMBER

Articles would be offset if not interlocking

Articles NOT
LYING FLATLY



P.J. Goodman

Kimmel & Crowell

ATTORNEYS